

ORDINANCE NO. 151 - 2010

AN ORDINANCE RELATING TO STORMWATER DISCHARGES FROM CONSTRUCTION SITES CREATING SUBSECTIONS 16-1(f)(48) THROUGH 16-1(f)(66) OF THE CODE OF ORDINANCES DEFINING TERMS; CREATING SUB-ARTICLE E OF ARTICLE X OF CHAPTER 16 OF THE CODE OF ORDINANCES (SECTIONS 16-99 THROUGH 16-105 AND SECTIONS 16-107 AND 16-108) TO ENSURE ADEQUATE CONTROL OF STORMWATER WHERE CONSTRUCTION SITES ARE LOCATED; AMENDING SECTION 16-207 OF THE CODE OF ORDINANCES RELATING TO INSPECTIONS; AMENDING SECTION 14-60 OF THE CODE OF ORDINANCES RELATED TO TRANSPORTATION AND RE-LOCATION OF DIRT AND DEBRIS BY RE-NUMBERING IT AS SECTION 16-106; AND PROVIDING THE ORDINANCE WILL NOT BECOME EFFECTIVE UNTIL AFTER ARTICLE 20 OF THE ZONING ORDINANCE IS REPEALED OR AMENDED.

WHEREAS, the mission of the stormwater management program of the Urban County Government includes safely and efficiently managing stormwater runoff, enhancing public health and safety, protecting lives and property, minimizing the discharge of pollutants in stormwater in compliance with applicable federal and state laws, and enhancing the natural resources of the community; and

WHEREAS, the Urban County Government, the United States Environmental Protection Agency, and the Commonwealth of Kentucky have entered into a Consent Decree in a case styled *United States, et al. v. Lexington-Fayette Urban County Government*, United States District Court for the Eastern District of Kentucky, Case No. 5:06-CV-00386, that requires LFUCG to implement an effective Construction Site Stormwater Runoff Control Program; and

WHEREAS, construction sites create substantial risks of detrimentally affecting water quality through pollution if not properly regulated;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Subsection 16-1(f) of the Code of Ordinances be and hereby is amended by creating the following subsections:

(49) "Erosion" means the process by which the ground surface is worn away by the action of wind or water.

(50) "Excavation or cut" means any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced or relocated, and shall include the conditions resulting therefrom.

(51) "Fill" means a deposit of soil, rock or other non-deteriorating material used by man, to replace or supplement the original soil or sub-soil.

(52) "Grading" means any stripping, excavating, filling, stockpiling of soil or any combination thereof, and shall include the land in its excavated or filled condition.

(53) "Natural features" means features including but not be limited to, existing water courses, soils, vegetation (including grasses, shrubs, legumes, etc.) and tree stands having trees five (5) inches or greater in diameter or fifteen (15) feet or greater in height, whichever is less.

(54) "Existing land surface" means any ground surface in its existing state before any grading, excavation, filling, or other disturbance. The existing land surface would include areas that were previously disturbed and are covered with asphalt, concrete, brick, or similar materials. The area of disturbance of existing land surface includes areas where dirt or debris is stockpiled.

(55) "Sediment" means any solid material, both mineral and organic that is in suspension, is being transported, or has been moved from its site or origin by air, water or gravity as a product of erosion.

(56) "Slope" means any inclined, exposed surface of a fill, excavation, or natural terrain.

(57) "Soil" means all earth material of whatever origin that overlies bedrock, and may include the decomposed zone of bedrock, which can be readily excavated by mechanical equipment.

(58) "Clearing" means any activity which removes or significantly disturbs the vegetative surface cover, including stripping and grubbing operations.

(59) "Common plan of development" means any announcement or piece of documentation (e.g., sign, public notice, or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (e.g., boundary signs, lot stakes, surveyor markings, etc.), indicating construction activities may occur on a specific plot. Where discrete construction projects within a larger plan of development or sale are located 0.25 mile or more apart and the area between the projects is not being disturbed, each individual project can be treated as a separate plan of development or sale, provided any interconnecting road, pipeline, or utility project that is part of the same "common plan" is not currently being disturbed.

(60) "Linear Utility Line Construction Project" means a project that will result in the disturbance of the existing land surface through clearing, grading, excavating, or filling activities along a relatively narrow strip of land for the purpose of installing, repairing, removing, or maintaining a pipeline, sewer, cable, wire, culvert, or other type of conduit. An individual Linear Utility Line Construction Project includes non-contiguous disturbances that are associated with an overall utility line project that serves a common purpose.

(61) "Intermittent Stream" means a stream which flows periodically in an established channel or bed where groundwater provides water for part of the stream flow. Channels that only flow in direct response to and immediately after precipitation are not intermittent streams.

(62) "Perennial Stream" means a stream that has continuous flow in parts of its bed all year round during years of normal rainfall.

(63) "Wetland" means land that has a predominance of hydric soils and that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions. (64) "Storm Sewer Inlet" means the surface inlet entry point to a subsurface stormwater pipe, conduit, or culvert.

(65) "Buffer" means a strip of vegetated undisturbed land.

(66) "New Residential or Commercial Building" means a new building that will be occupied by persons for residential or commercial purposes, including homes, office buildings, townhomes, and retail establishments. Renovations of existing buildings or structures are not new buildings.

(67) "Day" shall mean a calendar day unless otherwise specified.

(68) "Disturbance" means any land disturbance activity that may result in soil erosion, including but not limited to, clearing, grubbing, stripping, grading, excavation, demolition, or soil stockpiling.

(69) "Regular Inspections" means at least once every 7 calendar days, or at least once every 14 calendar days, and within 24 hours after any storm event of 0.5 inch or greater.

Section 2 – That Sub-Article E of Article X of Chapter 16 of the Code of Ordinances and Section 16-99 through 16-105 be and hereby are created to read as follows:

Section 16-99. Purpose and Intent.

The intent of this sub-article is to reduce soil erosion in Fayette County, and to provide procedures for submission, review, and acceptance of erosion and sediment control plans and applications for land disturbance permits prior to soil disturbance.

Section 16-100. Scope of coverage.

- (a) The following are included within the scope of this sub-article E: clearing, grading, excavating, and filling activities that will result in disturbing the existing land surface.
- (b) The following activities are exempted from the scope of this sub-article E:
 - (1) Accepted agricultural land management practices such as plowing, cultivation, home gardens, nursery operations such as the removal and/or transplanting of cultivated sod, shrubs, and trees, tree cuttings at or above existing ground level, and logging operations leaving the stump, ground cover, and root mat intact.
 - (2) Individual excavations at cemeteries for human or animal burial.
 - (3) Seeding and sod replacement where the disturbed land area is less than 10,000 square feet and the seeding or sod replacement is completed in less than five (5) calendar days.

Section 16-101. Procedures and standards for submission of erosion and sediment control plans and obtaining a land disturbance permit for land disturbance of less than 1 acre.

- (a) Any person intending to conduct clearing, grading, excavating, or filling activities associated with construction of a new residential or commercial building that will result in the disturbance of less than one acre of existing land surface shall submit an erosion and sediment control plan to the division of engineering and obtain a land disturbance permit from the division prior to conducting any such activities.
- (b) Unless exempted by Section 16-100, any person intending to conduct other clearing, grading, excavating, stripping, or filling activities that will result in the disturbance of 5,000 or more square feet, but less than one acre of existing land surface, shall submit an erosion and sediment control plan to the division of engineering and obtain a land disturbance permit from the division prior to conducting any such activities.
- (c) All erosion and sediment control plans shall be prepared in accordance with this Article, the Engineering Stormwater Manual 2009 and Engineering Standard Drawings, updated 2008, and shall contain erosion and sediment control best management practices that are reasonable and effective for minimizing impacts of stormwater runoff. Aspects of an erosion and sediment control plan that involve engineering design as defined in KRS 322.010 shall be prepared by a professional engineer licensed in Kentucky and shall be so identified and designated in the plan.
- (d) The division of engineering shall conduct a summary review of erosion and sediment control plans to assess whether plans reasonably include measures that address potential water quality impacts from construction prior to issuance of the land disturbance permit. It shall be the sole responsibility of the permit applicant to

ensure the accuracy and completeness of all drawings, calculations, and reports, and to ensure construction feasibility of the design. Within ten (10) working days after receipt of a plan, the division shall notify the permit applicant, in writing, of any deficiencies or omissions or shall issue the land disturbance permit.

(e) The permittee shall implement the erosion and sediment control plan in conducting activities under the land disturbance permit.

(f) A land disturbance permit issued under this section shall expire one (1) year from the issuance date. The land disturbance permit shall expire if work has not commenced within 180 days of the permit issuance date, or if no construction activity has occurred within a 180-day period. The permittee may, at least ten (10) days prior to the expiration of the permit, request in writing an extension. The division of engineering shall extend the expiration date contained in the permit upon a showing by the permittee in the extension request:

- (1) that there is sufficient justification for the extension;
- (2) that the extension not create a new erosion hazard or permit an existing one to continue; and
- (3) that a new completion date has been set.

(g) Erosion and sediment control plans shall conform to the requirements of the Engineering Stormwater Manual 2009 and shall include:

- (1) A discussion of the land-disturbing project including the purpose, location, and size of the area to be disturbed;
- (2) A discussion of the topography, land cover conditions, soils, percent of impervious areas, and drainage patterns both before and after land disturbance;
- (3) An identification of land use and cover conditions of adjacent property;
- (4) A schedule of the work to be conducted including the projected beginning and completion dates of construction activities, and construction sequencing, including clearing, grading, and re-vegetation activities, as well as any winter shut-downs;
- (5) A listing of erosion and sediment control best management practices, along with location, installation schedule, and the rationale for each use, such as silt fences, diversion ditches, earthen berms, grass strips, or other methods installed in conformance with the Stormwater Manual 2009 to prevent, to the maximum extent practicable, sediment from washing into streets, catch basins, storm sewers, grassed open channels, or adjacent seeded or sodded lots;
- (6) A listing of stormwater pollution control and best management practices to minimize pollution during construction (other than erosion) that might result from construction activities;
- (7) A discussion of the permittee's inspection and maintenance activities for erosion and sediment control best management practices;
- (8) A site map showing:
 - (a) Areas of disturbance;
 - (b) Locations of proposed controls, utilities, paved areas, and construction entrances; and
 - (c) All perennial or intermittent streams, wetlands, sinkholes, retention basins, retention ponds, culverts, and storm sewer inlets within 100 feet of the site.

(h) A 25-foot vegetated buffer shall be maintained between the land disturbance activities and the edge of any perennial or intermittent stream, wetland, open throat sinkhole, or municipal storm sewer inlet. If a 25-foot vegetated buffer is not feasible due to the nature or purpose of the activity, a protective alternate erosion control shall be proposed and justified in the erosion and sediment control plan. In such cases, the permittee shall minimize disturbances in buffer zone areas.

(i) The permittee shall post a copy of the land disturbance permit at the work site in a conspicuous location.

(j) The permittee shall revise the erosion and sediment control plan whenever control measures are significantly modified. Changes to an approved erosion and sediment

control plan that alter engineering designs shall be resubmitted to the division of engineering and the division of water quality for review prior to implementing the revised plan.

(k) The permittee shall notify the division of engineering and the division of water quality in writing (email, fax, or letter) at least two (2) working days before the following:

- (1) Start of construction;
- (2) Completion of soil stabilization.

(l) The permittee shall make regular inspections of all control measures. The purpose of such inspections will be to determine the overall effectiveness of the erosion control plan and the need for maintenance and/or additional control measures. Records shall be maintained of each inspection that include:

- (1) The date of the inspection;
- (2) The name of the inspector;
- (3) The findings from the inspection; and
- (4) Any actions taken as a result of the inspection.

Records shall be retained for 180 days following termination of the permit after project completion and shall be available for inspection consistent with section 16-207(c).

(m) The permittee shall promptly amend erosion and sediment control practices if its own inspections, or inspections by the Urban County Government, determine that existing erosion control measures or other best management practices in the plan are ineffective at minimizing sediment in stormwater run-off.

(n) The permittee shall, to the extent practicable, minimize land disturbances and the period of time the disturbed area is exposed without stabilization practices.

(o) The requirement to obtain and maintain permit coverage for activities subject to this section shall not terminate until a complete notice of termination is filed with the division of water quality and a final site inspection is completed by the division of water quality concurring that the terms of the permit have been met. The division of water quality shall complete the final inspection within 30 calendar days of receipt of the notice of termination.

Section 16-102. Erosion and Sediment Control Plans for Linear Utility Line Construction Projects Disturbing Less than One Acre

(a) Any person intending to conduct an individual linear utility line construction project that will result in the disturbance of 500 linear feet or more, of unpaved land surface, but less than one acre of unpaved land surface, shall submit an erosion and sediment control plan to the division of engineering and obtain a land disturbance permit prior to conducting any such activities as required by Section 16-101.

(b) Any person who intends to conduct linear utility line construction projects that individually disturb less than one acre of unpaved land surface on a regular basis shall submit an operational linear utility line erosion control plan to the division of engineering for review and obtain a linear utility line land disturbance general permit for all such activities commenced within a 24-month period from the date of permit issuance. For purposes of this section, regular basis shall mean such projects are conducted on more than ten (10) occasions during a calendar year. The initial linear utility line erosion control plan shall be submitted within ninety (90) days of the effective date of this ordinance.

(c) Any person conducting an individual linear utility line construction project that will result in the disturbance of 500 linear feet or more of paved land surface and which immediately places all excavated materials into a truck or other transportable soil containment device shall not be required to submit a linear erosion control plan.

(d) A linear utility line erosion control plan shall contain erosion and sediment control best management practices as are required for erosion and sediment control plans under Section 16-101, taking into account the unique characteristics of utility line

construction projects, and shall be specified for categories of proposed and anticipated activities based upon:

- (1) Type of construction activity;
- (2) Proximity of perennial or intermittent streams, wetlands, sinkholes, or municipal storm sewer inlets;
- (3) Size of disturbance, including disturbance width;
- (4) Other factors, such as slope, deemed relevant to minimizing erosion impacts from stormwater runoff for the category of activities and conditions that can be expected to be encountered.

Best management practices shall be described, by way of example, for stockpiled soils, backfilled area, stream crossings, storm sewer inlet protection, trench de-watering, and revegetated areas.

(e) Linear utility line construction projects subject to this Section shall be conducted in compliance with a land disturbance permit or linear utility line land disturbance general permit.

(f) Aspects of a linear utility line erosion control plan that involve engineering design as defined in KRS 322.010 shall be prepared by a professional engineer licensed in Kentucky and shall be so identified and designated in the plan.

(g) All linear utility line erosion control plans shall be prepared in accordance with this Article, the Engineering Stormwater Manual 2009 and Engineering Standard Drawings, updated 2008, and shall contain erosion and sediment control best management practices that are reasonable and effective for minimizing impacts of stormwater runoff.

(h) The division of engineering shall conduct a summary review of erosion and sediment control plans to assess whether plans reasonably include measures that address potential water quality impacts from construction prior to issuance of the land disturbance general permit. It shall be the sole responsibility of the permit applicant to ensure the accuracy and completeness of all drawings, calculations, and reports, and to ensure construction feasibility of the design. Within fifteen (15) working days after receipt of a plan, the division shall notify the permit applicant, in writing, of any deficiencies or omissions or shall issue the land disturbance permit.

(i) A 25-foot vegetated buffer shall be maintained between the land disturbance activities and the edge of any perennial or intermittent stream, wetland, open throat sinkhole, or municipal storm sewer inlet. Where a 25-foot vegetated buffer is not feasible due to the nature or purpose of the activity, a protective alternate erosion control shall be used as described in the linear utility line erosion control plan. In such cases, the permittee shall minimize disturbances in buffer zone areas.

(j) The permittee shall revise the linear utility line erosion control plan whenever control measures are significantly modified. Changes to an approved erosion control plan that affect engineering designs shall be resubmitted to the division of engineering and the division of water quality for review prior to implementing the revised plan.

(k) The permittee shall make regular inspections of all control measures. The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. Records shall be maintained of each inspection that include:

- (1) The date of the inspection;
- (2) The name of the inspector;
- (3) The findings from the inspection; and

- (4) Any actions taken as a result of the inspection.

Records shall be retained for 180 days following completion of a project and shall be available for inspection consistent with section 16-207(c).

(l) The permittee shall promptly amend erosion and sediment control practices if its own inspections, or inspections by the Urban County Government, determine that existing erosion control measures or other best management practices in the plan are ineffective at minimizing sediment in stormwater run-off.

(m) The permittee shall, to the extent practicable, minimize land disturbances and the period of time the disturbed area is exposed without stabilization practices.

(n) The permittee shall notify the division of engineering and the division of water quality in writing (email, fax, or letter) at least two (2) working days prior to commencing construction on a project that will result in a disturbance of 500 linear feet or more of existing land surface.

(o) The permittee shall post a copy of the land disturbance permit at the work site in a conspicuous location. If posting the land disturbance permit is not practical, a copy of the sections of the general permit that relate to the work being performed shall be available at the work site whenever work is being performed. The erosion control plan shall also be available at the work site whenever work is being performed.

(p) Linear utility line construction projects that result in the disturbance of one (1) acre or more of existing land surface as part of an individual project are subject to Section 16-104 permit requirements.

Section 16-103. Erosion Control Standards for Land Disturbance of less than 5,000 Square Feet.

(a) Unless exempted by Section 16-100, any person that conducts clearing, grading, excavating, or filling activities that results in the disturbance of less than 5,000 square feet of existing land surface that is not subject to erosion and sediment control plan requirements under Section 16-101 or linear utility line erosion control plan requirements under Section 16-102(b), shall use practical and reasonable practices to prevent unabated erosion of disturbed areas due to stormwater runoff. By way of example, practical and reasonable practices may include use of vegetated buffers, mulch, berms, covers, or barriers.

(b) A 10-foot vegetated buffer shall be maintained between the land disturbance activities and the edge of any perennial or intermittent stream, wetland, sinkhole, or municipal storm sewer inlet. If a 10-foot vegetated buffer is not feasible due to the nature or purpose of the activity, a protective alternate erosion control or management practice shall be used.

Section 16-104. Construction and Demolition Sites Disturbing One or More Acres of Land

(a) Unless exempted by Section 16-100, all clearing, grading, excavating, or filling activities that will result in the disturbance of one or more acres of existing land surface, including those activities that are part of a common plan of development that disturbs collectively one or more acres of land, are subject to the permitting and erosion control requirements of this Section. No person shall conduct such activities until and unless the person obtains land disturbance permit coverage for such activities from the Urban County Government under the terms and conditions of the Kentucky Pollutant Discharge Elimination System general permit for stormwater discharges associated with construction activities ("KYR10") issued by the Kentucky Division of Water on July 1, 2009.

(b) Except as otherwise herein provided, the terms and conditions of KYR10 issued July 1, 2009 by the Kentucky Division of Water and the associated notice of intent form (NOI-SWCA) are hereby incorporated by reference as the permit requirements of the Urban County Government for activities subject to this section.

(c) Permit Coverage Submittal.

(1) At least thirty (30) days prior to the proposed date of commencement of activities subject to this Section, a person requiring permit coverage shall submit a notice of intent to be covered by KYR10 and a stormwater pollution prevention plan ("SWPPP") to the division of engineering for review. Aspects of a SWPPP that involve engineering design as defined in KRS 322.010 shall be prepared by a professional engineer licensed in Kentucky and shall be so identified and designated in the plan. The division of engineering shall conduct a summary review of the SWPPP to assess whether the SWPPP reasonably includes measures that address potential water quality impacts from construction prior to authorization of land disturbance through a KYR10 land disturbance permit. It shall be the sole responsibility of the permit applicant to ensure the accuracy and completeness of all drawings, calculations, and reports, and to ensure construction feasibility of the design. Within fifteen (15) working days after receipt of a plan, the division shall notify the permit applicant, in writing, of any deficiencies or omissions or shall issue the land disturbance permit.

(2) Authorization to commence activities subject to this Section shall be effective upon the issuance of a land disturbance permit by the division of engineering under the terms and conditions of KYR10 and additional terms authorized by this section.

(3) If deficiencies are identified in the SWPPP, the division of engineering will notify the permit applicant of the deficiencies and shall not grant permit coverage until the deficiencies are addressed to the satisfaction of the division of engineering.

(4) The requirement to obtain and maintain permit coverage for activities subject to this section shall not terminate until a complete notice of termination is filed as provided in KYR10 (with a copy provided to the division of water quality) and a final site inspection is completed by the division of water quality concurring that the terms of the permit have been met. The division of water quality shall complete the final inspection within 30 calendar days of receipt of the notice of termination.

(5) A land disturbance permit issued under this section shall expire one (1) year from the issuance date. The land disturbance permit shall expire if work has not commenced within 180 days of the permit issuance date, or if no construction activity has occurred within a 180-day period. The permittee may, at least ten (10) days prior to the expiration of the permit, request in writing an extension. The division of engineering shall extend the deadlines contained in the permit upon a showing by the extension request applicant:

(i) that there is sufficient justification for the extension;

(ii) that the extension will not create a new erosion hazard or permit an existing one to continue; and

(iii) that a new completion date has been set.

(d) Any person required to obtain permit coverage for activities subject to this Section shall comply with the terms and conditions of KYR10 in conducting such activities, except as modified below.

(1) The limitations on coverage set out in Part I.C. of KYR10 are not applicable. The Urban County Government will allow permit coverage under KYR10 for all activities subject to this Section without regard to whether the Kentucky Division of Water requires coverage under an individual KPDES permit in lieu of KYR10.

Alternatively, LFUCG will allow permit coverage to be established under an individual permit issued by the Kentucky Division of Water in lieu of KYR10.

(2) A SWPPP shall, in addition to satisfying the requirements of KYR10, contain best management practices ("BMPs") and erosion controls consistent with the Urban County Government's Engineering Stormwater Manual 2009 and Engineering Standard Drawings updated 2008.

(3) Inspection reports prepared for all inspections are not required to be certified by a responsible corporate officer. Inspection reports may be signed by the site operator or the qualified person that conducts the inspection on behalf of the site operator.

(4) The requirements for critical areas and buffer zones under KYR10 shall also apply to any municipal storm sewer inlet.

(5) The term "as soon as practicable" as used in KYR10 shall mean, for purposes of this Section, at the earliest practicable time when external factors beyond the control of the permittee, such as inclement weather, would not prevent completion of the task.

(6) Any proposed variances or alternative practices from specific standards that are authorized by KYR10 shall be described in the SWPPP and are subject to review by the division of engineering.

(7) A SWPPP shall identify any structural water quality control measures that will be retained as part of the post-construction development land use.

(8) A SWPPP shall include any special conditions or BMPs required by the Urban County Government to specifically address streams identified as impaired by sedimentation and/or siltation under Section 303(d) of the Clean Water Act to assure the discharge is effectively treated to minimize pollution to such impaired water body.

(9) A SWPPP shall include any special conditions or BMPs required by the Kentucky Division of Water as KPDES permit conditions to address antidegradation requirements for high quality or exceptional waters.

(e) Issuance of a permit by the division of engineering under this Section shall not relieve the permit applicant from obtaining permit authorizations to discharge stormwater from the Kentucky Division of Water under KYR10 or an individual KPDES permit prior to commencing activities subject to this Section. A permit applicant shall provide the division with a copy of a written authorization to discharge under KYR10 that is issued by the Kentucky Division of Water as soon as practical after issuance of the state authorization.

(f) The permittee shall post a copy of the KYR10 land disturbance permit at the work site in a conspicuous location.

(g) The permittee shall notify the division of engineering and the division of water quality in writing (email, fax, or letter) at least two (2) working days before the following:

(1) Start of construction;

(2) Completion of final soil stabilization.

Section 16-105. Continuation of existing grading permits and erosion control plans.

Any person conducting clearing, grading, excavating, or filling activities at the time of adoption of this ordinance may continue to operate pursuant to an existing grading permit or erosion and sediment control plan accepted by the division of engineering and need not obtain new permit coverage under Section 16-102, 16-103, or

16-104 for such existing activities. Expansions of existing projects that prior to the expansion involve one or more acres of land disturbance that are not covered by an approved erosion and sediment control plan shall require permit coverage under Section 16-104. For existing projects with a total disturbance prior to the expansion of less than one acre, expansions shall be authorized by revisions to existing erosion control plans, unless the expansion involves disturbance of more than one acre of land.

Section 3 – That Section 16-207 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 16-207. Inspections and access.

- (a) Representatives of the department of environmental quality and the division of engineering shall, upon presentation of identification and credentials, be permitted to enter and inspect construction sites, industrial facilities, commercial facilities, and institutional facilities that are subject to regulation under chapter 16 but only as necessary to determine compliance with provisions of chapter 16 applicable to such facilities.
- (b) Representatives of the department of environmental quality and the division of engineering shall, upon presentation of identification and credentials, be permitted to enter and inspect the exterior portions of residential properties at reasonable times when probable cause exists that there may be a violation of chapter 16 as may be necessary or convenient to determine compliance with provisions of chapter 16 applicable to such residential properties.
- (c) In conducting any inspections pursuant to this section, representatives of the department of environmental quality and division of engineering shall be allowed reasonable access to all those parts of the premises with erosion control preparations or activities for the purposes of inspection, sampling, examination, photographing, recording, and copying of records that are required to be kept under Chapter 16, and the department of environmental quality shall have the right to set upon any such property devices as are necessary in the opinion of the commissioner of the department of environmental quality to conduct monitoring and/or sampling of wastes, stormwater runoff, air emissions, or wastewaters.
- (d) In conducting any inspections pursuant to this section, the department of environmental quality or division of engineering shall, upon written request of the owner/manager, enter into appropriate agreements to protect the confidentiality of records or other information furnished to the department of environmental quality that is trade secret or confidential business information.
- (e) It shall be a violation of chapter 16 for any person to impede or obstruct the safe and easy access of a representative of the department of environmental quality or the division of engineering in conducting an inspection authorized by this section.
- (f) It shall be a violation of chapter 16 for any person to impede or obstruct the safe and easy access of a representative of the department of environmental quality or division of engineering in conducting an inspection authorized by this section.

Section 4 – That Section 14-60 of the Code of Ordinances be and hereby is amended by re-numbering it and amending it to read as follows:

Sec. 16-106. Transportation, relocation of dirt, earth, debris.

- (a) All and any dirt, earth or debris, including yard waste, within the urban county shall be kept and/or transported in such a manner that it will not wash, drain or otherwise be caused to enter and be deposited in or upon the streets, sanitary sewers, storm sewers and/or other drainage facilities of the Urban County Government except as authorized by a land disturbance permit issued under this sub-article E.
- (b) Any person who displaces or relocates or causes to be displaced or relocated any dirt, earth or debris, and such displacement or relocation places the dirt, earth or debris in such a manner that it washes, drains or is caused to enter and be deposited in

or upon the street, sanitary sewers, storm sewers and/or other drainage facilities of the Urban County Government, shall forthwith remove and relocate said dirt, earth or debris to a safe location and shall clean up or cause to be cleaned up any dirt, earth or debris that has washed, drained or entered any street, storm sewer, sanitary sewers or other drainage facility. The provisions of this section apply also to any person, persons, partnerships or corporations, including property owners, building contractors, and developers, who direct another person to drive a vehicle onto a building site so as to displace or relocate any dirt, earth or debris in the manner described in this section.

Section 5 – That Sections 16-107 and 16-108 be and hereby are created to read as follows:

Section 16-107. Other Permits and Approvals.

Nothing in this sub-article E shall excuse a person that conducts clearing, grading, excavating, or filling activities from the responsibility of obtaining any other permits, licenses, certifications, or approvals required by the urban county government, the Commonwealth of Kentucky or United States.

Section 16-108. Surety requirements.

(a) Any surety required to be posted under Article 4 of the Land Subdivision Regulations shall include an amount for the completion and proper operation of erosion and sediment control facilities.

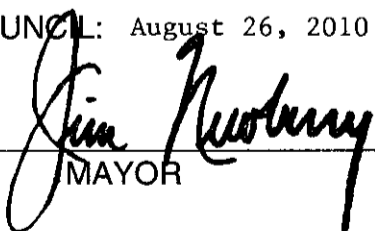
(b) The urban county government may require a surety to be posted for erosion and sediment control facilities that are required to be constructed but are not in conjunction with an improvement plan when such facilities are to be used by more than one property in a development. The amount of the surety shall be sufficient to provide for completion, proper operation and any required conversion of the basins to permanent stormwater best management practices.

(c) If not already required by subsection (a) or (b) the urban county government shall require a surety to be posted for any land disturbance covered by section 16-104 in an amount sufficient to cover site stabilization costs should the site fall into default.

(d) In all cases adjustments to the amount of the surety will be made as provided for in the Land Subdivision Regulations based on completion of work.

Section 6 – That this Ordinance shall become effective on the date Article 20 of the Zoning Ordinance is repealed or otherwise amended to remove its provisions related to stormwater discharges from construction sites.

PASSED URBAN COUNTY COUNCIL: August 26, 2010


MAYOR

ATTEST:


CLERK OF THE URBAN COUNTY COUNCIL

PUBLISHED: September 2, 2010-lt